

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JANINE DONALDSON and
KIMBERLY MCKENZIE,

Plaintiffs,

v.

RONALD LENSBOUER and
SOMERSET COUNTY,

Defendants.

Civil Action No. 3:15-cv-63-KRG

JUDGE KIM R. GIBSON

JURY TRIAL DEMANDED

**SOMERSET COUNTY'S MOTION IN LIMINE TO EXCLUDE EVIDENCE REGARDING
ALLEGED HARASSMENT AGAINST OTHERS THAN PLAINTIFFS ("ME TOO" EVIDENCE)**

AND NOW, comes this defendant, SOMERSET COUNTY, by and through its undersigned counsel, JonesPassodelis, PLLC, and file the within Motion in Limine to Exclude Evidence Regarding Alleged Harassment Against Others than Plaintiffs ("Me Too" Evidence), as follows:

1. Plaintiffs will seek to offer evidence at trial of alleged harassment and other conduct committed by Ronald Lensbouer as to other employees of Somerset County, including Alice McCartney, JoAnn Rheel, Daryl Marker, and Jessica Scheffel-Rodgers. (See, Plaintiffs' Witness List).

2. Rheel and McCartney will be asked to testify concerning alleged improper comments from Mr. Lensbouer. Ms. Marker and Ms. Rodgers will also testify concerning sexual comments made by Mr. Lensbouer in addition to one occasion each of an attempted touching or actual touching.

3. Any evidence regarding other employees who are not “similarly situated” has no tendency to prove or disprove plaintiffs’ claims that defendant, Somerset County, discriminated or subjected the plaintiffs to a hostile work environment.

4. Alice McCartney was not a correction officer nor was she an employee of the Somerset County Jail. Rather, she was employed as a nurse with an outside contractor, Prime Care.

5. Further, **Ms. McCartney did not testify as to any alleged physical harassment** conducted by Mr. Lensbouer as to her. As such, any reference to it should be excluded as irrelevant.

6. Similarly, **Ms. Rheel will also testify that Mr. Lensbouer never touched her inappropriately** and, as such, the circumstances of her testimony are markedly different and irrelevant.

7. Of further note, there is no dispute as to whether Mr. Lensbouer actually committed the acts for which he is accused.

8. Thus, whether Mr. Lensbouer acted inappropriately toward the other coworkers is irrelevant to prove any element of the plaintiffs’ Title VII claim, as plaintiffs do not need to prove that such events occurred, as that fact is not in issue.

9. In this matter, the “me too” evidence can only be employed to attempt to unfairly prejudice the jury, as it is not relevant to any factual issue in dispute for either of the claims being pursued by plaintiffs.

10. For reasons set forth more fully in the Brief in Support of this motion, plaintiffs should be precluded from offering “me too” evidence at trial.

WHEREFORE, defendant, SOMERSET COUNTY, respectfully request that this Honorable Court enter an Order and grant its Motion in Limine to Exclude Evidence Regarding Alleged Harassment Against Others than Plaintiffs (“Me Too” Evidence).

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document has been forwarded to all counsel of record by:

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